

REMARKS

Entry of the foregoing, re-examination and reconsideration of the subject matter identified in caption, as amended, pursuant to and consistent with 37 C.F.R. §1.112, and in light of the remarks which follow, are respectfully requested.

By the present amendments, the feature of canceled claim 2 has been added to claim 1, the feature of canceled claim 19 has been added to claim 18, and the dependencies of claims 20 and 21 has been changed. Claim 15 has been amended to add the feature disclosed, for example, on page 3, lines 12-15 of the specification. Claims 1, 3-18 and 20-29 are now pending in this application.

Turning to the Office Action, claims 15-19, 28 and 29 were rejected under 35 U.S.C. §112, second paragraph, for the reasons set forth on page 2 of the Office Action. Reconsideration of this rejection is respectfully requested for at least the following reasons.

The legal standard for determining compliance with the second paragraph of 35 U.S.C. §112 is whether the claims reasonably apprise those of ordinary skill in the art of their scope. See In re Warmerdam, 33 F.3d 1354,1361, 31 U.S.P.Q.2d 1754,1759 (Fed. Cir. 1994). In determining whether this standard is met, the definiteness of the language employed in the claim should be analyzed, not in a vacuum, but in light of the teachings of the prior art and of the particular application disclosure as it would be interpreted by one possessing the ordinary level of skill in the pertinent art. In re Johnson, 558 F.2d 1008, 1015, 194 U.S.P.Q. 187,193 (CCPA 1977).

Respectfully, Applicant submits that the claims accurately reflect the apparatus of the invention and that those of ordinary skill in this art would readily appreciate the scope of the claims. The present disclosure including the Figures of the drawings adequately apprise

those of ordinary skill how the claimed apparatus functions and what is the structural relationship between the various elements. The Examiner contends that claim 15, for example, fails to specify whether the combustion means is positioned before or after the means for detecting combined hydrocarbons in the gas. It is not clear why the absence of any such language renders the claims so indefinite that those of ordinary skill could not comprehend the claim scope.

For at least the above reasons, Applicant respectfully requests that the §112 rejection be reconsidered and withdrawn.

Claims 1 and 15-17 were rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 4,042,332 to Saitoh et al. for the reasons given on page 3 of the Office Action. Reconsideration of this rejection is respectfully requested in view of the above amendments and the following remarks.

Claim 2 was not rejected on this ground. The Office Action acknowledged that the cited art did not disclose or fairly suggest that the feed gas comprises at least 95% oxygen. The feature of allowed claim 2 has now been added to claim 1. Moreover, claim 15 has been amended to include the feature of a means to introduce hydrogen into the feed gas. The cited reference does not disclose or suggest this feature. Accordingly, the §102(b) rejection of claims 1 and 15-17 over Saitoh et al. '332 has been obviated and should be withdrawn. Such action is earnestly requested.

Claims 12, 18, 28 and 29 were rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 5,765,397 to Honda et al. in view of Saitoh et al. '332 for the reasons provided on page 5 of the Office Action. Reconsideration and withdrawal of this rejection are respectfully requested in view of the above amendments and the following remarks.

Claim 19 was not rejected on this ground. The feature of allowed claim 19 has been added to claim 18 so claim 18 is now allowable. Claim 12 is dependent upon claim 1 which is now allowable for the reasons discussed above. Claims 28 and 29 are dependent upon claims 16 and 17, respectively. Claims 16 and 17 are dependent upon claim 15 which is now allowable for reasons discussed above.

In view of the above remarks, the §103(a) rejection of claims 12, 18, 28 and 29 is now inapplicable to these claims. Accordingly, the rejection should be withdrawn and such action is earnestly solicited.

It is requested that the Examiner acknowledge receipt of Applicant's Request filed February 5, 2002, for priority pursuant to 35 U.S.C. §119. A certified copy of the priority application was filed concurrently with the Request.

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned at (703) 838-6683.

Respectfully submitted,

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